

OPENING STATEMENT OF SENATOR HOLLINGS
HEARING ON COMPETITION IN THE LOCAL PHONE MARKET
JUNE 19, 2001

TODAY, THE COMMITTEE WILL EXAMINE THE STATE OF COMPETITION IN THE LOCAL TELEPHONE MARKET. SPECIFICALLY, THE COMMITTEE WILL ADDRESS THE QUESTION AS TO WHY COMPETITION HAS NOT ARISEN IN THE LOCAL TELEPHONE MARKETS AS HAD BEEN PLANNED FOR BY THE PASSAGE OF THE 1996 TELECOMMUNICATIONS ACT. SOME HAVE QUESTIONED WHETHER THERE ARE PROBLEMS WITH THE ACT. WHAT WE WILL FIND AS WE EXPLORE THE RECORD TODAY, HOWEVER, IS THAT THE PROBLEMS ARISE, NOT FROM THE ACT, BUT FROM THE EFFORTS BY THE BELLS TO AVOID THE REQUIREMENTS OF THE ACT, AND ENTER THE LONG DISTANCE AND BROADBAND MARKETS WHILE SIMULTANEOUSLY PRESERVING THEIR LOCAL MONOPOLIES.

TODAY, WE WILL HEAR FROM THE COMPETITIVE COMPANIES THAT ARE TRYING TO BRING COMPETITION TO THE LOCAL MARKETS. THESE COMPANIES TOGETHER HAVE ALREADY INVESTED OVER \$150 BILLION IN THEIR EFFORTS TO COMPETE IN THE LOCAL MARKET PLACE. WE WILL HEAR FROM STATE OFFICIALS WHO HAVE ATTEMPTED TO ENFORCE AND FOLLOW GUIDELINES OF THE ACT, AS WELL AS FROM PUBLIC INTEREST GROUPS.

FINALLY, LET ME MAKE IT KNOWN THAT I EXTENDED INVITATIONS

TO EVERY BELL COMPANY TO TESTIFY. I AM GLAD THAT MY FRIENDS FROM BELLSOUTH HAVE AGREED TO ATTEND. AND LET ME MAKE IT CLEAR FOR THE RECORD THAT ANYTIME THE BELL COMPANIES - PARTICULARLY THEIR CEOS - WOULD LIKE TO SPEAK ON THE RECORD ON THIS ISSUE BEFORE THIS COMMITTEE, THEY ARE WELCOMED. BUT THE ONE THING THAT THIS COMMITTEE WILL NOT DO IS FUNCTION AT THE DICTATES OF BELL COMPANIES. THIS IS WHAT IS HAPPENING IN THE MARKETPLACE AND IS THE CRUX OF THE DIFFICULTIES WE ARE EXPERIENCING TODAY IN THE TELECOMMUNICATIONS INDUSTRY.

I HAVE HEARD THAT THE BELLS WOULD LIKE TO MAKE THIS A DEBATE SOLELY ABOUT BROADBAND, BUT THE FACT OF THE MATTER IS THAT THIS IS NOT A DEBATE ABOUT BROADBAND. THIS IS A DEBATE ABOUT HOW TO ENSURE COMPETITION IN LOCAL TELEPHONE MARKETS -- WHETHER IT IS THE PROVISION OF LOCAL OR BROADBAND SERVICE. IN OTHER WORDS, BROADBAND, LIKE ALL THE OTHER SERVICE ISSUES, IS MERELY A SUBSET OF THE LARGER ISSUE -- WHICH IS MARKET STRUCTURE AND COMPETITION. SO LET'S BEGIN THIS DEBATE BY DOING AWAY WITH THE SUBTERFUGE AND OBFUSCATION.

SO, WHY IS TODAY'S HEARING IMPORTANT? THE ANSWER IS SIMPLE, BECAUSE OF THE IMPORTANCE OF THE TELECOMMUNICATIONS INDUSTRY TO THE WHOLE INFRASTRUCTURE OF OUR NATION'S ECONOMY. ACCORDING TO

THE DEPARTMENT OF COMMERCE, TELECOMMUNICATIONS CURRENTLY ACCOUNTS FOR NEARLY 10 PERCENT OF OUR NATIONS'S TOTAL ECONOMIC OUTPUT. ALL OF AMERICA'S INDUSTRIES - AND AMERICAN CONSUMERS IN GENERAL - HAVE A CRUCIAL STAKE IN THE STRUCTURE OF OUR TELECOMMUNICATIONS INDUSTRY: IF IT'S COMPETITIVE, OUR COSTS ARE CHEAPER, AND SERVICES BETTER: IF IT IS NOT COMPETITIVE, COST WILL BE HIGHER, AND QUALITY OF SERVICE WILL SUFFER. WE OFTEN HEAR MUCH TALK TODAY ABOUT THE INTERNET AND E-COMMERCE. I, FOR ONE, AM PROUD OF THESE NEW TECHNOLOGICAL ADVANCEMENTS AND ON THIS NOTE, WAS HONORED TO WORK WITH MY FRIENDS TOM BLILEY AND SENATOR MCCAIN IN PASSING THE DIGITAL SIGNATURE BILL LAST YEAR, WHICH HAS OPENED THE DOOR TO MASSIVE GROWTH IN E-COMMERCE. BUT THOUGH THESE INDUSTRIES ARE GREAT, IT ALL BEGINS WITH TELECOMMUNICATIONS. WHO OWNS THE LINES, AND THOSE THAT COMPETE IN THE TELEPHONE BUSINESS MAY VERY WELL DETERMINE THE FATE OF THOSE INDUSTRIES.

BUT WE DIDN'T GET TO WHERE WE ARE ON A WHIM. FOR MORE THAN TWO DECADES, THE COURTS, CONGRESS, STATE LEGISLATURES, AND REGULATORS HAVE BEEN WORKING TO BRING COMPETITION TO THE TELEPHONE MARKETPLACE. THIS IS NO EASY FEAT SINCE CONGRESS GAVE MA BELL A MONOPOLY IN THE LOCAL AND LONG DISTANCE PHONE MARKETS, PROTECTED MA BELL FROM COMPETITION, AND GUARANTEED MA BELL A

PROFIT. IN THAT ENVIRONMENT, MA BELL FULFILLED ITS MISSION OF BUILDING A NATIONWIDE NETWORK AND CONNECTING THE VAST MAJORITY OF RESIDENTS TO THAT NETWORK.

OVER TIME HOWEVER, OTHER COMPANIES ATTEMPTED TO COMPETE, BUT THEIR EFFORTS WERE THWARTED BY MA BELL WHICH USED ITS POWER TO LOCK ITS COMPETITORS OUT OF THE MARKETPLACE. JUDGE GREENE STEPPED IN AND IN THE EARLY 1980'S, BROKE MA BELL INTO AT&T AND 7 REGIONAL BELL OPERATING COMPANIES. THIS ALLOWED COMPETITORS TO ENTER THE LONG DISTANCE MARKET, AND SINCE THEN, CONSUMERS HAVE HAD A CHOICE OF SERVICE PROVIDERS AND HAVE GENERALLY BENEFITTED FROM LOWER LONG DISTANCE RATES.

WHEN JUDGE GREENE BROKE-UP MA BELL HE RECOGNIZED THE SIGNIFICANT MARKET POWER OF THE LOCAL BELL COMPANIES, AND THE FACT THAT THEY HAD NO COMPETITORS IN THEIR LOCAL MARKETS. CLEARLY, UNDER SUCH CONDITIONS, IF THE BELLS WERE ALLOWED TO ENTER NEW MARKETS, THEY COULD QUICKLY DESTROY THEIR COMPETITORS BY USING THEIR MONOPOLY REVENUES TO SUBSIDIZE THEIR ENTRY INTO THESE MARKETS. CONSEQUENTLY, IN AN EFFORT TO PROTECT COMPETITION IN OTHER MARKETS, JUDGE GREENE RESTRICTED BELL COMPANIES FROM ENTERING MARKETS SUCH AS THE LONG DISTANCE AND MANUFACTURING MARKETS.

THE NEXT STEP FOR CONGRESS THEN WAS TO OPEN THE LOCAL PHONE MARKETS TO COMPETITION. AFTER MANY YEARS OF HARD WORK, NUMEROUS HEARINGS, AND TONS OF ANALYSES, CONGRESS IN AN AGREEMENT SIGNED ON TO BY ALL THE RELEVANT PARTIES -- INCLUDING THE BELLS, LONG DISTANCE SERVICE PROVIDERS, AND CABLE COMPANIES -- PASSED THE TELECOMMUNICATIONS ACT OF 1996. THE 1996 ACT IS A LANDMARK BILL, REPRESENTING THE MOST SIGNIFICANT RESTRUCTURING OF THE 1934 COMMUNICATIONS ACT. THE BILL MET THE NEEDS AND REQUESTS OF EACH OF THE IMPORTANT PARTIES AND MOST CRITICALLY, GAVE THE BELLS WHAT THEY MOST COVETED, ENTRY INTO ALL MARKETS. IN DOING SO HOWEVER, CONGRESS PUT IN PLACE PROVISIONS TO ENSURE COMPETITION. THIS WAS TO BE ACCOMPLISHED BY PREVENTING BELL COMPANIES FROM EXTENDING THEIR MONOPOLIES TO NEW MARKETS UNTIL THEY ALLOWED COMPETITORS TO INTERCONNECT WITH THEIR NETWORKS.

I AM PROUD TO HAVE BEEN ONE OF THE PRINCIPAL MEMBERS INVOLVED IN DRAFTING THE 96 ACT. I AM PROUD TO HAVE WORKED WITH MY GOOD FRIENDS LARRY PRESSLER AND TOM BLILEY. WE ALL HAD HIGH HOPES, PARTICULARLY GIVEN THAT ALL THE MAJOR COMPANIES WERE AT THE TABLE AND SIGNED ONTO THE ACT. WE KNEW WE HAD OVERCOME AN ENORMOUS HURDLE - BRINGING TOGETHER SOME OF THE MOST POWERFUL WARRING INDUSTRIES IN THE COUNTRY - AND PASSING ONE OF THE MOST SIGNIFICANT INDUSTRIAL BILLS EVER ENACTED BY CONGRESS.

AS NOTED, THE ESSENCE OF THE ACT WAS TO RESTRUCTURE AND MAKE COMPETITIVE ONE OF THE MOST MONOPOLISTICALLY CONTROLLED INDUSTRIES IN THE COUNTRY - THE LOCAL TELEPHONE MARKET. IF EVERYONE PLAYED BY THE RULES AND KEPT THEIR PROMISES, THE GOAL WOULD BE ACCOMPLISHED. BUT UNFORTUNATELY, THE BELLS HAVE NOT PLAYED BY THE RULES AND HAVE NOT KEPT THEIR PROMISES.

ALMOST AS SOON AS THE INK WAS DRY ON THE ACT, THE BELLS WERE IN COURT SEEKING A SHORT CUT TO EXTEND THEIR MONOPOLY INTO NEW MARKETS. THEY HAVE BULLIED COMPETITORS AND REFUSED TO PROVIDE REAL ACCESS TO THEIR MONOPOLISTIC NETWORKS. IN ESSENCE, THEY HAVE SOUGHT TO USE THE ACT TO GET WHAT THEY DIDN'T HAVE, BUT COVETED - ENTRY INTO THE LONG DISTANCE AND OTHER MARKETS - AND PRESERVE THROUGH CIRCUMVENTION WHAT THEY HAD, AND STILL HAVE - THEIR LOCAL TELEPHONE MONOPOLIES.

HAVING NOT BEEN AS SUCCESSFUL AS THEY WOULD HAVE LIKED BEFORE THE COURTS AND FEDERAL AND STATE REGULATORS, THEY HAVE NOW RETURNED TO CONGRESS SEEKING LEGISLATIVE HELP TO EXTEND THEIR MONOPOLIES. THEY CLAIM THAT NO ONE CONTEMPLATED THE DEVELOPMENT OF DATA SERVICE WHEN THE 1996 ACT WAS PASSED. WELL, WE ALL KNEW ABOUT THE POTENTIAL OF DATA SERVICE WHEN THE 1996 ACT WAS PASSED. WE INCLUDED SECTION 706 IN THE 1996 ACT WHICH

REQUIRES THE FCC TO TAKE ACTION TO ENCOURAGE THE DEPLOYMENT OF BROADBAND SERVICE, AND AS EARLY AS 1984 RICHARD MCCORMICK, THEN CEO AND CHAIRMAN OF USWEST, IN 1994 TESTIFYING BEFORE THE SENATE COMMERCE COMMITTEE STATED THE FOLLOWING:

WE HAVE EMBARKED ON AN AGGRESSIVE PROGRAM BOTH WITHIN OUR 14-STATE REGION AND OUTSIDE TO DEPLOY **BROADBAND**.

WE WANT TO BE THE LEADER IN PROVIDING INTERACTIVE -- THAT IS, TWO-WAY MULTIMEDIA SERVICES, VOICE, **DATA**, VIDEO."

AT THE TIME THE ACT PASSED MEMBERS OF CONGRESS EVEN MADE SIMILAR STATEMENTS. REPRESENTATIVE TAUZIN STATED:

"TODAY, IN A BIPARTISAN WAY, WE UNLEASH THE SPIRIT OF COMPETITION IN ALL FORMS OF TELECOMMUNICATIONS SERVICES, FROM TELEPHONES TO COMPUTERS, TO SERVICES DEALING WITH VIDEO PROGRAMMING, AND **DATA SERVICES** TO INTEREXCHANGE SERVICES THAT ARE GOING TO LINK US AS AMERICANS TOGETHER AS ONE LIKE NEVER BEFORE AND GIVE US ACCESS TO THE WORLD AND THE WORLD ACCESS TO US AS NEVER BEFORE." (FEBRUARY 1, 1996-- PAGE H1151 OF THE CONGRESSIONAL RECORD.)

FURTHERMORE, MANY WALL STREET ANALYSTS HAVE NOTED THAT COMPETITION HAS BEEN A DRIVING FACTOR IN BELL DEPLOYMENT OF BROADBAND SERVICE. A WALL STREET ANALYSTS WITH MONTGOMERY SECURITIES STATED THAT "RBOCS HAVE FINALLY BEGUN TO FEEL THE COMPETITIVE PRESSURE FROM BOTH CLECS AND CABLE MODEM PROVIDERS AND ARE NOW PLANNING TO . . . ACCELERATE/EXPAND DEPLOYMENT OF ADSL IN ORDER TO COUNTER THE THREAT." ANOTHER WALL STREET ANALYST WITH PRUDENTIAL SECURITIES NOTED THAT WITH RESPECT TO RBOC DEPLOYMENT OF BROADBAND SERVICE AN "IMPORTANT MOTIVATING FACTOR IS THE THREAT OF COMPETITION [AND] [O]THER PLAYERS ARE TAKING DEAD AIM AT THE HIGH-SPEED INTERNET ACCESS MARKET."

THE FACT IS THAT CONGRESS SHOULD NOT HELP THE BELLS EXTEND THEIR MONOPOLIES. IT IS CLEAR THAT UNDER THE 1996 ACT, BELLS CAN ENTER THE LONG DISTANCE OR THE BROADBAND MARKET OR ANY OTHER MARKET THEY CHOOSE, BUT JUST NOT BY EXTENDING THEIR MONOPOLY AND HARMING COMPETITION. TODAY, BELLS CONTINUE TO HOLD 92 PERCENT OR ALL PHONE LINES. CABLE COMPANIES DO NOT COMPETE WITH THE BELLS FOR BUSINESS CUSTOMERS. THEREFORE, BELL COMPANIES ARE THE PREDOMINANT PROVIDERS OF BROADBAND SERVICE IN THE BUSINESS MARKET WHERE THEY COMPETE PRIMARILY WITH CLECS. IN ADDITION, MORGAN STANLEY AND OTHERS PREDICT THAT BY 2004, BELL COMPANIES

WILL CATCH-UP TO THE CABLE COMPANIES IN THE RESIDENTIAL BROADBAND MARKET.

THE REALITY IS THAT CONGRESS GAVE THE BELLS A MONOPOLY IN THE LOCAL TELEPHONE MARKET. CONGRESS CERTAINLY SHOULD NOT NOW GRANT THEM A MONOPOLY IN THE LONG DISTANCE AND BROADBAND SERVICES MARKETS. THE BELLS MUST COMPETE LIKE EVERYONE ELSE TO GET CUSTOMERS IN THESE MARKETS AND NOT LOOK FOR A GOVERNMENT HANDOUT. GIVEN THE POTENTIAL BENEFITS OF COMPETITION, THE ANSWER MUST BE "YES" TO COMPETITION IN THE LONG DISTANCE AND BROADBAND MARKETS AND "NO" TO MONOPOLY DOMINATED MARKETS.

CONGRESS HAS A RESPONSIBILITY TO CONSUMERS TO PROMOTE AN OPEN COMPETITIVE LOCAL TELEPHONE MARKET AND MUST ACT TO ENSURE BELL COMPLIANCE WITH THE 1996 ACT. I THANK THE WITNESSES FOR JOINING US TODAY AND LOOK FORWARD TO THEIR TESTIMONY ON THIS VITAL ISSUE.